

**VOSH PROGRAM DIRECTIVE: 13-006A**

**ISSUED: May 10, 2021**

<b><u>Subject</u></b>	<b>Memorandum of Understanding Between the Department of Transportation (VDOT) and the Department of Labor and Industry</b>
<b><u>Purpose</u></b>	<p>This Directive transmits the renewed Memorandum of Understanding (MOU) between the Virginia Department of Transportation (VDOT) and the Department of Labor and Industry (DOLI), which outlines the procedures for enforcing Virginia Occupational Safety, and Health (VOSH) standards on contract work performed for the Virginia Department of Transportation (VDOT).</p> <p><i>The MOU attached herein is not a guidance document as defined by Va. Code §2.2-4101 and will not be subject to the 30 day comment period prescribed by Va. Code §2.2-4002.1.</i></p>
<b><u>Scope</u></b>	This Directive applies VOSH-wide.
<b><u>Reference</u></b>	None.
<b><u>History</u></b>	VOSH Program Directive 13-006 (15 January 2009) – <i>Superseded</i>
<b><u>Cancellation</u></b>	The attached MOU will remain in effect for five years from the date of signing, May 14, 2019 until May 14, 2024. The MOU will be reviewed by both parties prior to renewal.
<b><u>Effective Date</u></b>	May 14, 2019
<b><u>Expiration Date</u></b>	May 14, 2024 <i>(or may be cancelled at any time before with 30 days written notice from either signatory)</i>
<b><u>Action</u></b>	Directors and Managers shall ensure that policies and procedures established in this Directive are uniformly enforced and field personnel understand and comply with the requirements included in this Directive.

*C. Ray Davenport*

C. Ray Davenport, Commissioner

Distribution:

Commissioner of Labor and Industry  
Assistant Commissioner  
VOSH Directors and Managers  
VOSH Legal Support & IMIS Staff

Director of Cooperative Programs  
VOSH Compliance & Cooperative Programs Staffs  
OSHA Region III & OSHA Norfolk Area Offices

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
AND  
VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: May 1, 2019

This MEMORANDUM OF UNDERSTANDING (MOU) represents a cooperative understanding between the Virginia Department of Transportation (VDOT) and the Virginia Department of Labor and Industry (DOLI) for the purpose of outlining the procedures for enforcing Virginia's Occupational Safety and Health Standard on contract work performed for the Virginia Department of Transportation.

This MOU shall be effective upon signature of the authorizing parties and will remain in effect for five years from the date of signing and will be reviewed by both parties prior to renewal. This agreement may be revised or modified at any time with the concurrence of both signatories and may be cancelled for any reason with 30 day written notice from either signatory.

Both parties shall maintain all records pursuant to the agreement and to the extent required by law provide access to any interested party upon request. Records may include the MOU document; reports, studies or other documents prepared during the period of performance/implementation; or related financial records.

Liaisons for the MOU shall be the VDOT Director of the Office of Safety, Security & Emergency Management and the DOLI Compliance Safety and Compliance Health Directors. These persons shall meet at least annually to evaluate and monitor activities and discuss results in achieving the goals of the MOU.

VDOT includes and will continue to include in all of its contracts a requirement for the contractor to be in compliance with Federal and Virginia Occupational Safety and Health (VOSH) Standards, §40.1-51.1 of the Code of Virginia, and the VDOT Work Area Protection Manual.

VDOT personnel will administer the provisions of its contract(s) as outlined below:

Imminent Danger<sup>1</sup> or Immediately Dangerous To Life or Health<sup>2</sup>

In all cases, where there is a situation that is imminent danger or immediately dangerous to life or health (IDLH) to any person within the boundaries of VDOT contract work, VDOT will notify affected personnel of the hazard, and will use the provisions of the contract to have the hazard corrected immediately. If the Contractor fails to correct the problem or if the problem is repeated, VDOT will immediately contact and provide a referral to DOLI for an inspection and enforcement of the Occupational Safety and Health Standards, as applicable.

Violations of Standards Exposing VDOT Employees to a Safety or Health Hazard  
Violations of VOSH Standards exposing VDOT employee(s) to a safety or health hazard(s) will be brought to the Contractor's attention and the provisions of the contract will be used to have the violation corrected. VDOT employees will not expose themselves to the hazard while there is a violation of the Standards.

The violation shall be referred to DOLI for an inspection and enforcement of VOSH Standards, as applicable, if the Contractor refuses to correct the violation or continues to violate the Standards.

Violations of Standards Not Exposing VDOT Employees to  
a Safety or Health Hazard

OR

Not an Imminent Danger or Immediate Danger to Life and Health

Violations of Standards not exposing VDOT employees to a safety hazard shall be brought to the Contractor's attention. The Contractor will be given five (5) work days to correct the violation. If the Contractor does not believe his operations are in violation of the Standards or does not correct the violation, a referral will be made to DOLI for an inspection and enforcement of the Standards, as applicable.

REFERRAL

Referral to DOLI for apparent violations of Occupational Safety and Health Standards will be made by VDOT's Safety & Security Division.

DOLI will notify VDOT's Safety & Security Division of the disposition of each referral.

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<sup>1</sup> "Imminent Danger" means any condition or practice in any place of employment such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through standard enforcement procedures provided by Title 40.1 of the Code of Virginia, 16VAC25-60-10.

<sup>2</sup> "IDLH or Immediately Dangerous to Life or Health" means an atmospheric concentration of any toxic, corrosive or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere.  
[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=21788](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=21788)

VDOT and DOLI hereby enter into this MEMORANDUM OF UNDERSTANDING with the intent of improving employee safety and health on VDOT contract work.

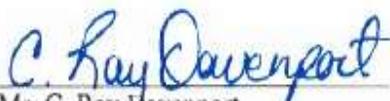
This MOU represents a non-financial understanding and is not a legal contract. It is entered into for the mutual benefit of both parties and does not create any third party rights or benefits. Neither entity shall assign or subcontract any work or services related to this understanding without the prior written consent of the other entity.

Statutory Requirements

Federal and Virginia Occupational Safety and Health Standards and Code of Virginia §40.1-51.1.

  
Mr. Stephen C. Brich, P.E.  
Commissioner  
Virginia Department of Transportation

5/8/2019  
Date

  
Mr. C. Ray Davenport  
Commissioner  
Virginia Department of Labor and Industry

5/14/2019  
Date